

Kerry M.L. Smith, OSB No. 881033  
SMITH & FJELSTAD  
722 N. Main Avenue  
Gresham, Oregon 97030  
Tel: (503) 669-2242  
Fax: (503) 669-2249  
E-mail: smithandfjelstad@frontier.com

Attorneys for Plaintiff Robin Dean

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

ROBIN DEAN,

Plaintiff,

v.

SAFEWAY, INC.,

Defendant.

Civ. No. 3:12-CV-01875-PK

DECLARATION OF KERRY SMITH IN  
SUPPORT OF PLAINTIFF'S RESPONSE  
TO MOTION FOR SUMMARY  
JUDGMENT

I, Kerry M.L. Smith, declare under penalty of perjury that the following is true and correct:

1. I am the attorney for the plaintiff in this action and I make this declaration of my personal knowledge and I am competent to testify to the facts contained in this declaration.

2. Attached as Exhibit A are true and correct copies of excerpts of the deposition of Mr. Robin Dean.

3. Attached as Exhibit B are true and correct copies of Mr. Eric Maiorano's notes. These were deposition Exhibit 3.

4. Attached as Exhibit C is a true and correct copy of Mr. Maiorano's letter (with attachments) to Mr. Dean's attending physician. This is deposition Exhibit 11.

////

**DECLARATION OF KERRY M. L. SMITH IN SUPPORT OF RESPONSE TO MOTION FOR SUMMARY JUDGMENT.**

Page 1 of 2

5. Attached as Exhibit D is a true and correct copy of Safeway's Job Offer letter presented to Mr. Dean. This is deposition Exhibit 12. During discovery defendant did not provide me with a completed version of this document.

6. Attached as Exhibit E are true and correct copies of documents I received from Safeway during discovery in this matter. These documents, dated March 23, 2011, authorized Mr. Dean to work in the Health and Safety Room. These documents are deposition Exhibits 5, 6 and 7.

7. Attached as Exhibit F is a true and correct copy of a June 30, 2011, medical note authorizing Mr. Dean to return to work as a truck driver.

8. Attached as Exhibit G is a true and correct copy of defendant's memorandum regarding Leave of Absence which I received from defendant during discovery.

9. Attached as Exhibit H are true and correct copies of excerpts of the deposition of Mr. Eric Maiorano.

DATED: March 31, 2014.

SMITH & FJELSTAD

---

/s/ Kerry M.L. Smith  
Kerry M.L. Smith, OSB #881033  
Of Attorneys for Plaintiff